



ENVIRONMENTAL PROTECTION AGENCY

[FRL-10013-48-Region 3]

Clean Water Act: Virginia – Sarah Creek and Perrin River Vessel Sewage No-Discharge Zone – Final Affirmative Determination

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice – Final Determination.

SUMMARY: On behalf of the Commonwealth of Virginia (the Commonwealth), the Secretary of the Virginia Department of Natural Resources requested that the Regional Administrator, U.S. Environmental Protection Agency, Region 3 approve a no-discharge zone for Sarah Creek and Perrin River, Gloucester County, Virginia pursuant to the Clean Water Act. After review of Virginia's application, the EPA determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the entirety of Sarah Creek and Perrin River. The application is available upon request from the EPA (at the email address below) or at

<https://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/NoDischargeZoneDesignations.aspx>.

DATES: This approval is effective upon the date of publication in the Federal Register

FOR FURTHER INFORMATION CONTACT: Matthew A. Konfirst, U.S. Environmental Protection Agency –Region III. Telephone: (215) 814-5801, Fax number: (215) 814-5007; email address: konfirst.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

As described in the Commonwealth's application, the extent of the proposed no-discharge zone of Sarah Creek from York River begins at 37° 14' 58.34" N, 76° 29' 39.17" W and extends to 37° 15' 00.81" N, 76° 28' 37.84" W. From there it continues north throughout any navigable waters including all tributaries and bays. The delineation of the proposed no-discharge zone of

Perrin River from York River begins at 37° 15' 47.18" N, 76° 25' 20.73" W and extends to 37° 15' 50.63" N, 76° 25' 11.84" W. From there it continues north throughout any navigable waters including all tributaries and bays.

The Commonwealth certified that there are three stationary and one mobile pumpout facilities at two locations along Sarah Creek and one stationary pumpout facility along the Perrin River. Two of the three locations also have a method to empty portable toilets. Furthermore, the Hampton Roads Sanitation District (HRSD) provides free portable pumpout service in Gloucester County on Fridays, Saturdays, and Sundays during summer months and on Saturdays the rest of the year. HRSD prefers to service marinas but will provide the portable pumpout at a private residence when requested. The Virginia Department of Health (VDH) ensures that proper sanitary facilities are present at marinas, and marina facilities are inspected annually by VDH for compliance with regulations. A list of the facilities, phone numbers, locations, and hours of operation follows.

LIST OF FACILITIES WITH PUMPOUTS IN THE PROPOSED NO-DISCHARGE ZONE				
Pumpout Facility	Operating Hours	Mean Low Water Depth (ft)	Phone Number	Address
York River Yacht Haven (Sarah Creek)	24/7	8	804-642-2156	8109 Yacht Haven Road Gloucester Point, VA 23062
Dockside Condominiums (Sarah Creek)	24/7 April 1 – November 15	6	757-876-1568	Sunset Drive Gloucester Point, VA 23062

Crown Pointe Marina (Perrin River)	The pumpout is available 24/7 from March 1 – November 30 (so it is available even if the other marina services are closed). Dec 1 – Feb 28 pumpout is winterized.	5	804-642-6177	9737 Cooks Landing Road Hayes, VA 23072
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The Commonwealth provided documentation indicating that the total vessel population is estimated to be 3,563 vessels (2,115 in Sarah Creek and 1,448 in Perrin River), the majority of which are recreational. The most conservative vessel population estimates provided by the Commonwealth of Virginia suggest that there are 535 vessels less than 16 feet in length, 1,531 vessels between 16 feet and 25 feet in length, 1,263 vessels between 25 feet and 40 feet in length, and 234 vessels greater than 40 feet in length. Commercial traffic on these waterways is limited to 24-30 dead rise workboats, two large fiberglass fishing boats, three charter fishing boats, and a few small tugs that work at the oil refinery on the other side of the York River. Most commercial boats, such as local watermen's boats, generally do not have marine sanitation devices (MSDs) installed and do not require a pumpout. As described in the Commonwealth's application, two large fiberglass fishing boats in the Perrin River have MSDs. Additionally, a few small tugboats use the Perrin River as a staging area. These vessels likely have MSDs onboard, but also use porta-johns located on the barges. Of the three charter fishing boats that are kept in Sarah Creek and operate primarily on the York River and Chesapeake Bay, two have porta-potties, while the third has an existing holding tank. Based on the number and size of vessels and EPA NDZ guidance (*Protecting Coastal Waters from Vessel and Marina*

Discharges: A Guide for State and Local Officials, August 1994), the estimated number of vessels requiring pumpout facilities in Sarah Creek and Perrin River during peak occupancy is 221. For these vessels, EPA guidance recommends at least one pumpout facility each for Sarah Creek and Perrin River.

In the application, the Commonwealth certified that Sarah Creek and Perrin River require greater environmental protection than provided by currently applicable federal regulations. Sarah Creek and Perrin River are tributaries of the York River, which drains into the Chesapeake Bay. All or portions of the proposed waters are listed by the Commonwealth on current or previous Clean Water Act section 303(d) lists of impaired waters as impaired for shellfish harvesting due to fecal coliform. As such, many shellfish beds are restricted or closed. Both waterbodies are also impaired for dissolved oxygen and aquatic plants (macrophytes). Establishing a no-discharge zone will contribute to: 1) protecting the tidal ecosystem; 2) restoring the restricted and closed shellfish beds in these areas; and 3) preventing further water quality degradation and loss of beneficial uses in these tributaries as well as in the York River.

Sarah Creek and Perrin River are used for a variety of activities, including boating, fishing, shellfish harvesting, oyster gardening, crabbing, water skiing, swimming, and more. There are marinas, private piers, numerous vessel anchorages, public and private boat launch facilities, commercial seafood docks, and a waterside restaurant. Local watermen are interwoven with the unique identity of the Chesapeake Bay, influencing its history, culture, and economy. Furthermore, these waterbodies provide food, spawning grounds, and/or habitat to approximately 33 threatened, endangered, and rare species of plants and animals, including the Atlantic sturgeon, loggerhead sea turtle, and the northern diamond-backed terrapin.

The EPA made a final determination that adequate pumpout facilities are reasonably

available in both Sarah Creek and Perrin River and that the use of these facilities imposes minimal costs. In Sarah Creek, there is no charge to use the available pumpout facilities, while in Perrin River there is a \$5.00 fee per pumpout for non-slip holders, though the fee is waived with a small purchase at the marina store. Depth at low tide at the pumpout facilities is between five and eight feet, which is comparable to the depths at the entrances to Sarah Creek and Perrin River. Therefore, vessels requiring greater depths than provided at the pumpout station would have difficulty entering Sarah Creek or Perrin River.

Following publication of the Tentative Affirmative Determination in the Federal Register on March 11, 2020, a 30-day public comment period was opened (85 FR 14195). The EPA did not receive any comments regarding the EPA's intent to issue an affirmative determination on Virginia's application to designate Sarah Creek and Perrin River as a no-discharge zone.

Based on the information above, the EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Sarah Creek and Perrin River and its tributaries such that the Commonwealth may establish a vessel sewage no-discharge zone.

Cosmo Servidio,
Regional Administrator,
EPA Region III.

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